I. Amendment

Please amend the application as follows:

In the Claims:

Please add the following claims:

A1

12. The nucleic acid molecule of claim 1, comprising the sequence of SEQ ID NO: 1.

13. The nucleic acid molecule of claim 1, consisting essentially of the sequence of SEQ ID NO: 1.

Support for the foregoing new claims may be found throughout the specification, and in the original claims. No new matter was added by way of these amendments.

II. Response to Raw Sequence Listing Error Report

In the Office Action dated March 22, 2001, the Examiner has objected to the sequence listing for allegedly failing to comply with the requirements of 37 C.F.R. §§ 1.821 through 1.825. A Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures was mailed to Applicants on February 19, 1999. The Raw Sequence Error Report accompanying that notice is identical to the Raw Sequence Error Report accompanying this Office Action, including the date and time that the report was generated. Applicants responded to the Notice on April 13, 1999, and provided a corrected sequence listing and Computer Readable Form (CRF). As such, Applicants assert that the sequence listing, in its current form, conforms to 37 C.F.R. §§ 1.821 through 1.825.

III. Response to Restriction Requirement

In the Office Action dated March 22, 2001, Paper No. 5, the Examiner required restriction to one of the following inventions under 35 U.S.C. § 121:

Group I: Claims 1 and 2, drawn to nucleic acid molecules classified in Class 536, subclass 23.1, for example;

Group II: Claims 3 and 4, drawn to enzymes or fragments thereof, classified in Class 530, subclasses 300 and 350, for example;

Group III: Claim 5, drawn to antibodies or fragments thereof, classified in Class 530, subclass 387.1, for example;

Group IV: Claims 6, 7, and 11, drawn to a transformed plant and methods of producing the same, classified in Class 800, subclasses 278 and 295, for example;

Group V: Claims 8-10, drawn to methods of determining a level or pattern in a plant cell of an enzyme or mutation therein based on polynucleotide hybridization, classified in Class 435, subclass 6, for example.

Applicants respectfully traverse the restriction requirement, and provisionally elect the claims of Group I, claims 1 and 2 for further prosecution.

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden.

Rather, a serious burden would arise if the application were restricted.

Applicants believe that no serious burden is created for the Examiner by running a simultaneous computerized search of the nucleic acids. The single search may be run in conjunction with databases such as those available at http://www.ncbi.nlm.nih. Therefore, the search of several nucleotide sequences creates no undue burden on the Examiner, whereas, by contrast, the restriction to a single nucleotide sequence imposes a serious burden on Applicants.

The Examiner maintains that the requirement to select a single nucleotide sequence is not "the election of 1 (one) sequence of this type is now deemed to be practically appropriate so as to not overwhelm the examination and search processes regarding such claims." (Office Action dated March 22, 2001 at page 4). However, this approach contravenes the USPTO policy as set forth in the Manual of Patent Examining Procedure stating that "to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commisioner has decided ... to permit a reasonable number of such nucleotide sequences to be claimed in a single application." (MPEP, 7th ed., July 1998, Section 803.04). The MPEP further provides that "[i]t has been determined that normally ten sequences constitute a reasonable number for examination purposes." (emphasis added) *Id.* While the Examiner requires that a single nucleotide sequence be selected, no legitimate reason has been provided for this deviation from articulated Patent Office policy. (MPEP, 7th ed., July 1998, Section 803.04).

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group I (claims 1 and 2). Applicants provisionally elect, with traverse, SEQ ID NO: 1.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (202) 942-5071. The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 50-1824.

Respectfully submitted,

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